**TENNESSEE GENERAL ASSEMBLY**
**FISCAL REVIEW COMMITTEE**

# FISCAL MEMORANDUM

## HB 1039 - SB 1402

May 4, 2021

**SUMMARY OF ORIGINAL BILL:** Changes the date, from February 1 to February 14, by which the Commissioner of the Department of Labor and Workforce Development must annually provide a report to the General Assembly which details the condition of the Unemployment Compensation Fund.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENTS (006977, 008178):** Amendment 006977 deletes all language after the enacting clause. Makes changes to the amount of maximum unemployment benefits. Increases weekly benefits by $25 for all claimants. Establishes that any eligible claimant is entitled during any benefit year a total amount of benefits equal to the following:

- Twelve weeks if the state's average unemployment rate is at or below five and five-tenths percent (5.5%);
- An additional week in addition to the 12 weeks for each five-tenths percent (0.5%) increment in the state's average unemployment rate above five and five-tenths percent (5.5%); or
- Up to a maximum of 20 weeks if the state's average unemployment rate exceeds nine percent (9%)

These benefit changes shall take effect December 1, 2023.

Amendment 008178 adds language to the bill as amended by amendment 006977 to: (1) require the weekly benefit amounts to be increased annually to reflect inflation; (2) remove one requirement that must be met in order to waive repayment of overpaid unemployment benefit overpayments; (3) require the Department of Labor and Workforce Development (DLWD) to examine and determine a claim for unemployment insurance benefits with 14 days of receipt of any such claim; (4) require a representative of the DLWD to give written notice of a nonmonetary determination, along with the factual and legal reasons supporting it, within three business days of the determination being made; (5) require any monetary benefits be paid within three business days of any final determination being made; and (6) require such officer to annually increase unemployment insurance premiums in relation to increases made to weekly benefit amounts in order maintain the solvency of the Unemployment Insurance Trust Fund (Fund).

## FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

**Increase State Expenditures - $5,961,700/FY21-22/General Fund**
**$5,827,700/FY22-23/General Fund**
**$5,577,700/FY23-24 and Subsequent Years/ General Fund**

**Decrease State Expenditures – Net Impact -**
**$19,549,900/FY23-24/Unemployment Insurance Trust Fund**
**$33,533,300/FY24-25 and Subsequent Years/ Unemployment Insurance Trust Fund**

**Other Fiscal Impact – This legislation will result in additional impacts to revenue and expenditures from the Unemployment Insurance Trust Fund. Due to multiple unknown variables, the timing and extent of such impacts cannot be quantified with reasonable certainty.**

Assumptions for the bill as amended:

*Assumptions relative to amendment 006977:*

- The changes are effective December 1, 2023.
- Currently, maximum unemployment benefits are equal to the following:
    - Twenty-six times the claimant's weekly benefit amount; or
    - One-fourth of the claimant's wages for insured work paid during the claimant's base period.
- Based on information provided by the Boyd Center, a reduction in the duration of payments is estimated to result in a recurring decrease in state expenditures from the Unemployment Insurance Trust Fund (Fund) of approximately $49,400,000, beginning in FY24-25.
- This legislation will increase weekly benefits by $25 for all claimants, resulting in a significant increase in state expenditures from the Fund.
- Based on information provided by the Boyd Center, the recurring increase in state expenditures from the Fund is estimated to be approximately $15,866,700, beginning in FY24-25.
- The recurring net decrease in state expenditures from the Fund is estimated to be $33,533,300 ($49,400,000 - $15,866,700), beginning in FY24-25.
- In FY23-24, the impact will be equal to approximately 58.3 percent (7 months / 12 months) of the of the estimated $33,533,300 recurring net decrease in state expenditures, or a net decrease in state expenditures from the Fund of $19,549,914 ($33,533,300 x 58.3%).

- The Department will incur a one-time increase in state expenditures from the General Fund of $250,000 in FY22-23 for IT costs related to unemployment benefits system changes in order for implementation to be complete by December 1, 2023.
- This legislation may result in additional increases in expenditures for subsequent IT system changes for DLWD; however, such expenditures will account as revenue to the STS, so the net impact upon the state is estimated to be not significant.

*Assumptions relative to amendment 008178 and total impacts:*

- The changes are effective upon becoming a law.
- Currently, pursuant to Tenn. Code Ann. § 50-7-303(d), a person has liability to repay overpaid unemployment benefits, unless a written request is submitted and all of the following conditions exist:
    - The overpayment was not due to fraud, misrepresentation or willful nondisclosure on the part of the person;
    - The overpayment was received without fault on the part of the person; and
    - The recovery of the overpayment from the person would be against equity and good conscience.
- This legislation will remove the third condition that must be met.
- This legislation will require the Department of Labor and Workforce Development (DLWD) to hire additional positions to meet the expedited deadlines imposed by this legislation.
- Based on information from the DLWD, it will require 50 new claims agents, 40 new adjudicators, 8 program specialists, 10 new unemployment account auditors, 4 unemployment security managers, and 8 unemployment account supervisors.
- This legislation will result in an increase in recurring state expenditures of $5,577,660 (salaries $3,965,472 + benefits $1,468,188 + communications $120,000 + supplies $24,000) and one-time state expenditures of $384,000 [(office furniture $2,000 + computers $1,200) x 120 positions].
- Based on information provided by the DLWD, overpayments due to agency error range from $5,000,000 to $6,000,000. Despite the number of new positions, this legislation is estimated to result in an increase in overpayments made out of the Fund due to agency error and additional fraud due to shorter timelines for processing claims; in addition, removing one of the required criteria for repayment of overpayments will result in fewer overpayments being recovered.
- This legislation requires chief administrative officer of the Division of Employment to annually increase the weekly unemployment benefit amounts to reflect inflation, as measured by the United States Bureau of Labor Statistics consumer price index or, if that index ceases to exist, another index adopted by such officer.
- In addition, this legislation authorizes such officer to increase unemployment premiums to pay for such increases in unemployment benefits.
- The precise impact of such provisions on the Unemployment Trust Fund is based upon multiple unknown factors and cannot be determined with reasonable certainty.
- An increase in state expenditures to the General Fund in FY21-22 of $5,961,660 ($5,577,660 + $384,000).
- An increase in state expenditures to the General Fund in FY22-23 of $5,827,660 ($5,577,660 + $250,000).

- A recurring increase in state expenditures to the General Fund in FY23-24 and subsequent years of $5,577,660.

## IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

**Other Commerce Impact – Due to multiple unknown factors a precise impact on business revenue and expenditures cannot be quantified with reasonable certainty.**

Assumption for the bill as amended:

- Due to multiple unknown factors a precise impact of this legislation on business revenue and expenditures cannot be quantified with reasonable certainty.

## CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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